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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,917	07/25/2007	David Moorhouse	P01487-US-00 (13030.0013)	6580
22446 7590 11/13/2009 ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			EXAMINER EDELL, JOSEPH F	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 11/13/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,917	<b>Applicant(s)</b> MOORHOUSE ET AL.	
	<b>Examiner</b> JOSEPH F. EDELL	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 and 52-58 is/are pending in the application.
- 4a) Of the above claim(s) 10,11,19-48 and 54-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9,12-18,52 and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 19-48 and 55-58 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04 September 2009.

Claims 10, 11, and 54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 04 September 2009. The traversal is on the ground(s) that claim 1 possesses a special technical feature sufficiently linking Species I and II as a single general inventive concept under PCT Rule 13.1. This is not found persuasive because the “one of two interchangeable second parts comprising a spring element” recited in claim 1 is not found to be a special technical feature. See the below rejection of claim 1 setting forth the lack of special technical feature. Because no special technical feature exists to link Species I and II, Examiner maintains the election of species requirement.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the

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description: 7a and 11b. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the air spring positioned between the base portion and the one of the first and second arms, the air spring positioned on a, or between two, suitable mountings, and the one or more channels suitably sized to allow movement of the first arm free ends must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 1 recitation of "one of two interchangeable top portions" and "one of two interchangeable second parts."

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: "clement" (line 6) should read --element--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 13, the phrase "preferably a wing extending from the opposing long sides and the or each wing is provided with an aperture" renders the claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 12-18, 52, and 53, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,595,596 B2 to Brightbill et al.

Brightbill et al. discloses a suspension system for a vehicle seat having a top portion 36, a first part 32 with a base portion and means to receive top portion and to allow movement of the base portion and top portion towards and away from each other, a second part 631 with an air spring adapted in use to control movement of the base portion and top portion toward and away from each other, at least one pair of pivotally connecting arms 263,265 securing to each other the top and base portions, a first arm

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in each pair with one end pivotally secured to the base portion and a second arm in each pair releasably pivotally secured to the top portion, one or more bars 259,281,301 designed to extend from the base portion and receive the top portion and pivotally secured directly between the top and base portions wherein the top portion and second portion are releasably connected to the first part, the top and base portions are each respectively provided with upper and lower surfaces, the free end of each second arm is provided with means to allow it to move relative to an upper surface of the base portion, the free end of each first arm is provided with means to allow it to move relative to a lower surface of the top portion, the air spring is positioned between the base portion and one of the first and second arms to control movement of the arms relative to the base portion, the air spring is positioned on or between two suitable mountings positioned between the first or second arms, the top portion is generally rectangular with short and long sides, the top portion is provided with one portion adapted to be releasably secured to each second arm of the first part, and the means to receive the free end of the first arm includes channels. See column 17, lines 24-40 of Brightbill et al. for the teaching that the spring elements may be two or more interchangeable parts. Brightbill et al. disclose all the claimed structural features of the instant invention. Brightbill et al. lack only the specifically recited method steps, as recited in claims 1-9, 12-18, 52, and 53, as best understood. It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time the invention was made to use the suspension system of Brightbill et al. by the claimed method steps. Such a

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modification provides a conventional and efficient method of manufacture of the suspension system of Brightbill et al.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to suspension systems for a vehicle seat:

U.S. Pat. No. 3,109,621 to Simons et al.	U.S. Pat. No. 3,233,859 to Beoletto
U.S. Pat. No. 3,752,432 to Lowe	U.S. Pat. No. 3,788,697 to Barton et al.
U.S. Pat. No. 4,856,763 to Brodersen et al.	U.S. Pat. No. 4,946,145 to Kurabe
U.S. Pat. No. 5,176,355 to Carter	U.S. Pat. No. 5,799,922 to Timms et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should



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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/

Primary Examiner, Art Unit 3636

November 13, 2009